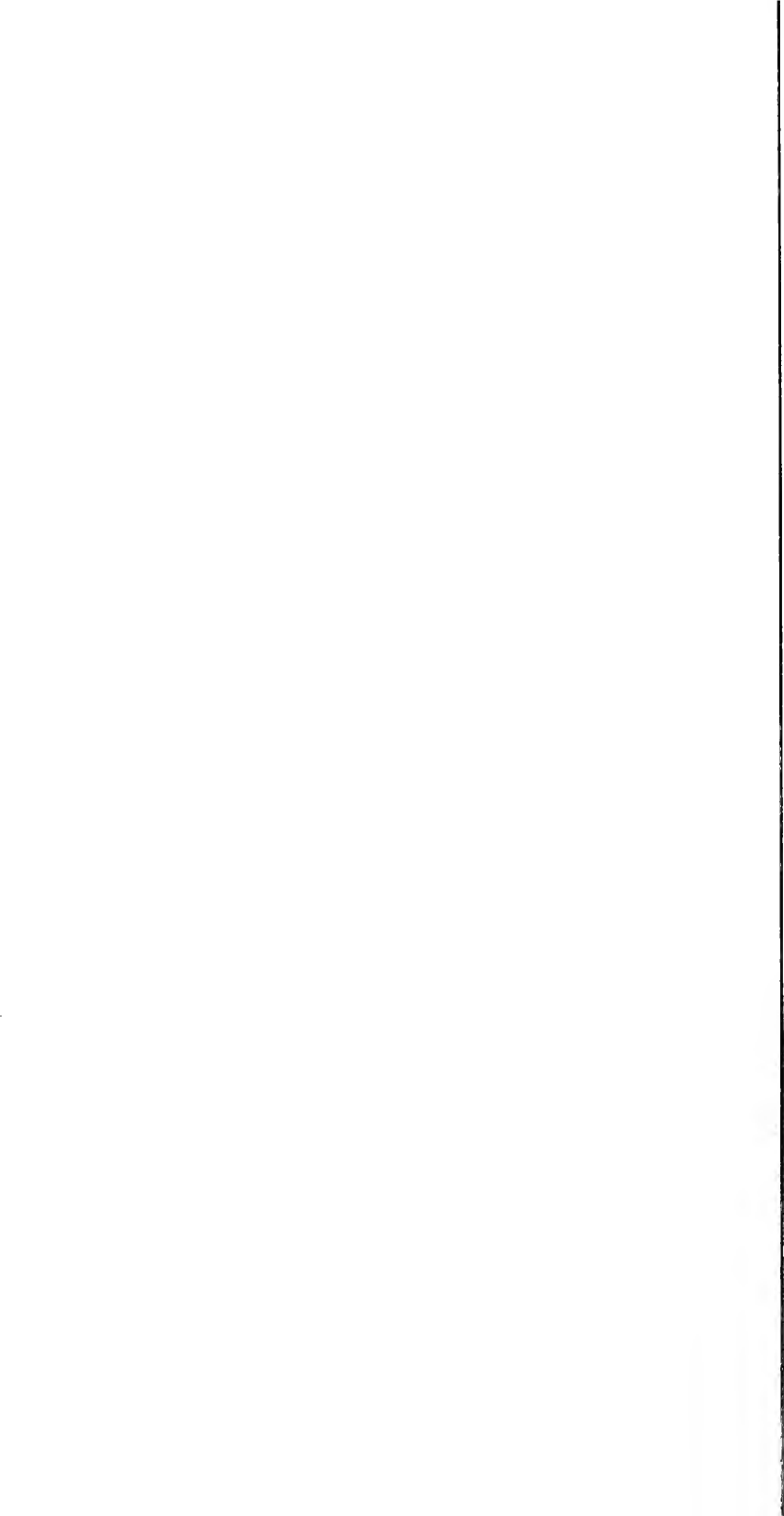


E

357

F85





5
FREEDOM AND PROTECTION,

1017
283
THE

POLICY

OF THE

UNITED STATES

OF

AMERICA.

PRINTED

December. 1812.

5710
575

25.1
12

357 33
'03.

THE LIBRARY
OF CONGRESS

FREEDOM AND PROTECTION.

THE powerful impression of transactions changing the condition of governments and people since the last century——sceptres broken——the tiara trodden down——cities, states, countries, that have borne the republican name on the European continent, all overwhelmed, with lordships, principalities, kingdoms; and on the vast ruin, gorged with human blood, new shapes of knighthood and nobility and new shapes of princely distinction and royal state in imperial chains——in the Catholic world, a dissolution of the political firmament and tremendous agitations extending to both hemispheres——a war without parallel enkindled in Europe

with the spreading of the flames to envelop continents—the vastness of the conflagration—the nature of the contest between the great warring powers—the portentous time—the actual condition of these United States—the varieties of distress in sufferance or apprehension—all urge enquiry and thoughtfulness respecting the proper means of security for our own country. The enquiry is momentous. Overwhelming revolutions in human affairs impress it on the soul.

What are we now taught by Washington? Consistent, useful, capacious, pacific, defensive, covetting no foreign possessions, subservient to no foreign dictation, his policy was that of the hero and patriot, the policy of intrepid honesty and wisdom and honor. “Europe has a set of primary interests, which to us have none or a very remote relation.—It must be unwise in us, to implicate ourselves, by artificial ties, in the

' ordinary vicissitudes of her politics or the
 ' ordinary combinations or collisions of her
 ' friendships or enmities. Our detached and
 ' distant situation invites and enables us to
 ' pursue a different course." In holding forth
 the great rule of conduct for us in regard
 to foreign nations, his services and zeal for
 this beloved country, with his warning voice,
 teach us, "to keep ourselves, by suitable
 ' establishments, on a respectable defensive
 ' posture." If his sentiments "recur to
 moderate the fury of party spirit, to warn
 against the mischiefs of foreign intrigues,
 to guard against the impostures of pretended
 patriotism," the exigencies of the time, with
 these considerations, instruct us to reflect on
 the political posture of the country. Is it
 a posture of defensive respectability? What
 measures of defence might be expected in
 real operation to secure respect? For the
 true answer, attention must be given to the
 subject of a general policy so clearly defen-
 sive in principle, so comprehensive in scope,

and so modified with appropriating discretion, as may be worthy of a free people distinguished from other powers of the globe.

The enquiry, let it be marked, concerns our own country appropriately. If we consult the history or literature of ancient or modern Europe, on this subject, they return no answer which is entirely satisfactory. Nor is the desired answer to be expected, in the United States, from the bigotry of railing partisans, the temerity of ostentatious zeal, or the tremors of fastidious refinement. Of such counsel, there is no want. The time demands a policy meriting the character of fair, provident, magnanimous. The proper means of security for our own country must be such as are right in general principle, and adapted to the peculiarity of relative situation.

The annals of empire for the present century, in dissuading from a servile imitation

of prior measures, especially in a great political conjuncture, speak with monitory eloquence against narrow views as well as against intemperance or indecision. With this general sentiment, let it be repeated, the enquiry concerns our own country appropriately. It is not limited to political sect or local section. It concerns a people jealous of independence: The true policy for them must not depend on the pleasure of a foreign power. It concerns a people at once agricultural and commercial, in whom the love of freedom is entwined with the ligaments of the heart: The policy proper for them must be a policy of freedom in matters of government and commerce. And the policy must be protective in nature: Without protection, freedom becomes an empty name.

Warned as we are not to implicate ourselves by artificial ties in the vicissitudes of European politics, the counsel of Washington, "to keep ourselves by suitable establish-

ments on a respectable defensive posture," is full of precious instruction. Proper in peace, it is eminently proper in war.

The distance of a thousand leagues of ocean, peculiar interests, constitutional policy, all distinguish this country from those of Europe.

With a system of government founded on the basis of general liberty, in this country, it is a grand purpose of the constitutional policy, to have protection against unjust exertions of power. To defend what is our own, accords with the primary interests of the people. And, in the estimate of physical and political considerations, the relative position in the new world may be pronounced decisively favorable to defence.

In making the estimate, perhaps too it might be numbered among the distinguishing felicities of the United States of America.

to have facilities and means powerful for defence if well directed, and yet be exposed to serious difficulties and wants in undertaking to conquer foreign territory. To say nothing of particular evils incident to success or failure in such undertakings, the ambition of conquest does not become the administrators of a representative government constituted by the people in a country where the landholders are allodial proprietors and not feudal tenants.

Conquest or military domination has formed the basis on which European monarchy has arisen in rigor. The subordination and obedience of an army were principles of feudal policy; under which a country was governed as a camp. The chief in military command received homage as lord paramount and exacted obedience as monarch. In an iron age——amidst the dependencies of vassalage and villenage —— force

commanded, and fear obeyed. Government was an estate. The community were enchained.

Different from such policies in basis and principle, the constitution of our own country does not favor a spirit of conquest. Nor ought this to be regretted by the enlightened patriot. In possession of ample domain within the acknowledged boundaries of the United States—domestic tranquillity, the common defence, the blessings of liberty, are among the fair purposes for which the constitution was established. For these, there are powers delegated. Defence was a primary object of the original Union. It is of primary importance to the rights and interests of the people. It was a declared purpose of the confederation. It is a grand constitutional principle. “The United States shall guaranty to every State in this Union a republican form of government; and shall protect each of them against invasion, and

on application of the legislature, or of the executive when the legislature cannot be convened, against domestic violence.” Such is the text of the constitution. In relation to military force, protection against external attack and the security of internal order are contemplated. The general purpose is defensive protection. Congenial principles recommend a like policy in regard to maritime affairs. Agricultural or commercial rights are not protected by forsaking the prudential policy of defence for passionate projects of conquest.

We have seen the fourth section in the fourth article of the constitution. It merits distinguishing attention.—Where the provided case occurs, the benefit of an eventual guarantee may be claimed by the party for whose use it was intended. Such is the guarantee of a republican form of government to every State in the Union.—The legislature or executive of a State may apply

to the general government for protection against such violence at home as combats the State.—But the protection of the States against invasion or attack from abroad is a general duty to be performed under the constitution, without the necessity of a previous claim or formal application from any state authority.—The terms are appropriate. Rights and duties of the respective governments are presented to view. The constitution recognizes the particular States as having governments of their own, each organized distinctly and existing by the will of the community, with faculties for deliberation and action. They are included within the Union, for which there is constituted a general government with organization and powers relative to the greater affairs of empire. Novel as it is in political history, the constitutional association of government within government, presenting various barriers of freedom and humanity, is favorable to social right and eventual defence.

But the destroying ambition of conquest is not favored by this polity of freedom and humanity.

Such are some of the considerations which advise a system of measures defensive in scope and modification. In a system so defensive, the administration of affairs for this Union of republican States might well be distinguished from the offensive policy of feudal and monarchical governments.

Looking through a series of centuries, an eye like the poet's in a fine frenzy rolling might glance from this to the other hemisphere and there observe the origin of feudal policy in the rushing storm from the north, which shook the Roman world. That conquering policy was military in nature, involving ardor and strength, and distinguished eventually by surrounding splendor and loftiness of domination. Advancing in distinc-

tion with the general march of human affairs, the iron sway in full ascendant was rigid despotism.

From the north, sweeping westward of the Euxine, the whirlwind had crossed the Danube and the Rhine, and, driving below Gibraltar, had reached the Libyan sands.

The multitudinous force no longer rushed from the north to overwhelm the south. The rugged population no longer swarmed from the northern hive.

During the further progress of society, as commerce gradually prevailed and the arts of humanized life have been cherished, the exercise of power was moderated and a spirit of freedom has been infused into government. In the change from despotism to freedom, a passion for conquest gives place to sentiments of defensive protection.

The true policy of defence accords with moral and religious principle, with social and political sympathies, with the rights of property, with the spirit of independence, with the love of freedom, with the permanent interests of the people. It accords with a state of peace or neutrality. And who will deny its importance in a state of declared war?

As guarding domestic security and commercial freedom and public honor, it is a policy that is commended to the patriotic and the wise and the brave. A safeguard in peace, a vast shield in war, the system of defence highly concerns the United States amidst convulsions in the Old World and in the New.

Defence consists in repelling aggression. Its object is conservation or security for the future. Its character is preventive—the opposition to attack being adapted to prevent loss. By force to repel violence actually of-

ferred, is no more a breach of international than of civil peace.

The line of defence is exceeded when force is employed to exact satisfaction or inflict punishment for what is past. Such employment of force is vindictive; and, if by one individual against another, is an offence against the civil peace, or, if by one power against another, is characterized as war.

When a state of war without qualification is legalized by one power against another, it authorizes the employment of force on land and water to attack and take or destroy property and persons; and it authorizes the attack and capture or destruction of them as belonging to the other power. Such is a publication of open war. The power first making it breaks the international peace.

So clear are general truths which concern the society of nations. So level are they to

common sense, and so analogous to sentiments respecting the civil peace, which are familiar to intelligent jurors and judicial officers in this country. Truths so obvious and so directly applicable in questions highly interesting to this country, may have been obscured or distorted: But in this respect it is the more important to correct errors, if not confined to speculation but operating to mislead in administering the affairs of empire,

To want of attention to the true distinction between defensive measures and measures offensive, may doubtless be attributed much of confusion observable in relation to affairs of this country. Yet, in other concerns than politics, men of scientific character can discriminate between defence and attack; while practical sense maintains the distinction in feeling and in fact. If classical authority be desired, on this point, by any of the men of reading, who, unfortunately for themselves and others, may be

less the masters than the slaves of what they read—shall they not be heeded from general regard to literature?—in relation to armour, Homer and Virgil might explain the difference between a shield and a spear. Without studying Cicero or Quintilian on eloquence, the defence of one's own character or cause might be distinguished, in principle, from attacking that of another. Athenian sentiment associated tutelary wisdom and patronage of the arts with the bearing of the ægis. Having a cognizance of olive, their Minerva was characterized as wisdom, with the powerful shield, guarding the commonwealth and patronizing the arts. In a professed representation of this character, the omission of the ægis would have insulted the sense of the Athenian people. Among them, the shield of wisdom was regarded as a chosen gift of the Supreme, to which was attributed a power that could defeat all terrestrial assault. Since the art of printing has unlocked repositories of ancient litera-

ture and distributed the treasures—since it has assisted genius and science and taste to address assemblies and persons of various character and in various regions—since the eloquence of the press, speaking to millions at once, has been heard throughout empires ; it might be supposed, that persons claiming literary rank could discern the use of the powerful shield against violence in the ægis of Minerva repelling the spear of Mars.

On this point, do the persons of reading desire more to be said ? For saying so much, the importance of the subject may present an apology, if any such remarks should appear superfluous to discriminating minds accustomed to regard the principled difference between the defensive character and the offensive in the conduct of affairs.

Is such a distinction unknown to any jurist or publicist of real science ? Dare but to think on public affairs with the practical

sense which you estimate in concerns of private life!——Dare to observe attentively and reason truly!——Is not the difference between the defensive character and the offensive as clear in principle as it is important in conduct?

The distinction is plain, practical, extensive. It is of commanding importance.

This being definitively understood, it admits a comprehensive view of affairs, and unfolds a governing principle by which the character of measures may be fairly estimated.

The course of observation now presents this general position, as supported by a body of evidence too strong to be overthrown——With respect to foreign powers, the true policy of our own country is to be found in the proper application of the principle of defence.

In point of moral elevation and reach of argument, have you estimated what a field might be commanded from this position? Although the position is evident, are you completely aware of its scope?

If it be considered in full but fair extent, the principle of defence may be found applicable in relation to moral or political and physical means. There is a defensive influence attached to moral dignity, which is of no trivial significance in the conduct of affairs. Diplomatic arrangements may be numbered, with others, among the political means of defence: arrangements of armed force, among the physical. For a republic, if wisely provided, defensive arrangements of force are the protective armor of freedom and the arts.

Freedom in the fair pursuits of industry, freedom in government, the arts of civilized life, the sciences by which the arts are be-

friended, instructed, refined, exalted——interesting as all are to our own country——their protection concerns the cherished objects of our affections, the best and noblest faculties of our nature. They cannot be protected, without protecting the great interests of commerce and agriculture.

Since the invention of the mariner's compass, the ocean has become a vast theatre of human industry. Assisted by the polarity of the magnetic needle, maritime skill and enterprize discovered a new world. And civilization, arts, sciences, were borne by navigation as on wings of the eagle to plant settlements in the wilderness of the globe—a wilderness already taught to blossom as the rose. Cradled on the margin of the sea, with habitudes, sentiments, and interests fashioned and animated by the commercial spirit of enterprize and love of freedom, in a position having insular advantages connected with natural facilities for interior

transportation, with a front bordered by the ocean for hundreds of leagues, with territorial boundaries comprehending a million of square miles, the United States have arisen the great independent power in the New World. Commercial and agricultural, attached to principles of free trade and allodial property, in forming this Union and instituting a general government, the States have definitively adjusted the terms of their social contract. Wisely consulting the situation and interests of the country, a convention of States with Washington their President having proposed such form of constitutional association as appeared the most advisable, by assent of Congress under the confederation, conventions of delegates chosen by the people in the original States, under recommendations of their legislatures, deliberately agreed to the form proposed: and accordingly, by solemn acts of ratification, established between them a political constitution differing from all the govern-

ments which European fact or fancy had presented to human attention, a constitution paramount to the legislative and executive authorities. Among the general objects of this constitution, the common defence was expressly intended. It now demands attention distinctly.

Having relation to the great interests of agriculture and commerce, the common defence extends protection to both. Such is clearly the general principle. In practical application, there are corresponding distributions of defence—the territorial and the maritime. Are you willing to examine them? Can you look with serenity at the real character of defence, and mark it correctly, as the eye is thrown over the extensive scene?

Ascend the main ridge of the Allegheny!—look at the boundaries of the United States southward and westward and

northward! Observing the scene with quick eye, amidst the vastness of plains and forests and rivers and lakes, if you see no contributions of yearly millions to the common treasury, you may see proofs of attention to interests there in the forts and garrisons or military posts with regular forces, maintained at public charge, to guard against outrage or hostility.

As contributing to place those interests in the state of security which they enjoyed at the beginning of the present century, various measures were of importance. Under the administration of president Washington, in 1794, a constitutional force was summoned into service from the Atlantic side of the Union to sustain the authority of the laws, and the well known insurrection west of the Allegheny mountains was suppressed. Farther westward, and in the northwestern quarter, the war-whoop yelled

along the infant settlements. Twelve tribes of Indians were taught the importance of peace by major general Wayne with the army of the United States under his command, in the year 1795; and a destructive Indian war was ended by the memorable treaty negotiated at Greenville, the headquarters of the victorious army. That treaty settled the general boundaries between the United States and all those Indian tribes. In the same year, a treaty was sealed at the famous Escorial or palace of San Lorenzo in Spain, by which the Spanish government agreed to the southern boundary of the United States as declared by the definitive treaty of peace in 1783, and likewise agreed to the line of boundary between the United States and Louisiana on the west. The Spanish treaty established points respecting territory which had been questioned between the two countries. It stipulated for withdrawing all Spanish troops from the territory within the agreed boundaries of the United States, and

for a demarcation of limits between the territory of the United States and the Spanish colonies of West Florida and East Florida. Ratifications of the treaty were exchanged at Aranjuez in April 1796. The interesting stipulations respecting territory were eventually carried into effect, notwithstanding the difficulties interposed by intrigue. Various questions relative to the definitive treaty of 1783 were brought to a close by a treaty with the British government ; and of consequence, in the year 1796, possession was taken of Michilimackinac and Detroit and other northern posts within the boundaries of the United States as established by national agreement.

These great measures established a basis for solid peace in the west and northwest, on the south and on the north. It was a basis fitted to support the capacious superstructure which was to be raised in the spirit of peace.

The foundations being established for territorial security, the patriotism presiding in the government with equal and comprehensive eye was attentive to measures for rendering the work complete. And there was adopted a policy systematically protective with relation to the inland borders, having in view to prevent excesses, to preserve tranquillity, to promote civilization and regularity of trade with Indian tribes.

The protection could not be assured without a portion of such regular forces as have been observed at the garrisons or posts along the borders.

Land forces of this description are maintained in service constantly. And they may be employed, under the constitutional law, at home or abroad. With pay, subsistence and other allowances from government, these troops do not rely partly or entirely on booty or prizes for support, like military adven-

turers sometimes known on the continent of Europe, or like cruisers sometimes set forth on private account for captures at sea in time of war, and considered auxiliary to the public force. As raised generally at public expence for public service without any qualification respecting purpose or place, the troops of various denominations appointed and governed by the proper authority of the United States are holden to serve not only at home and for territorial defence; but they may be ordered on foreign service for offensive operations in case of declared war.

Not so the general body of population habitually employed in their own pursuits on land, while provided with arms for territorial defence. In specified cases of public exigence, these may be called forth constitutionally to perform military service within the United States. Such is the policy of the constitution respecting the militia, whether distinguished as artillery, cavalry, infantry,

select or independent corps, guards or volunteers. Officered and trained to discipline as the militia are by authority of the States respectively, a power to provide for the more uniform regulation of the whole has been delegated to the legislature of the United States.

General conformity of arrangement favors the proper execution of the great protective duty, which the militia may be summoned to perform on the occurrence of any of the exigent cases specified in the constitution. Arranged for protection of age and infancy and female excellence, in view of habitations and temples and seats of instruction and the sepulchres of parents, the mighty armature of the body of the citizens is the unbought guard of social life, the more than Telamonian defence of useful skill and generous friendship.

Under power delegated by the constitution of the United States, for giving a sys-

tematic uniformity to the militia of the several states, general provisions were established by an act which was approved, in 1792, by president Washington; who afterwards repeatedly recommended the subject of the militia to legislative consideration for improvement in the system. Such was the attention to have suitable establishments provided for the common defence.

But that attention was not contracted to defence of territory, nor diverted to foreign conquest. Of no dubious fame in arms, regardless of the great interests of the country, the hero and patriot contemplated "the protection of a maritime strength" for shielding the interests of navigation. "There is a rank due to the United States among nations, which will be withheld, if not absolutely lost, by the reputation of weakness. If we desire to avoid insult, we must be able to repel it."

Keeping in mind, therefore, the characteristics of territorial defence at which we have glanced, let us now cast a rapid eye over the maritime.

Looking to what is practical in provisions for defence having the sanction of Washington, we here observe, as of primary consideration, the establishing of fortifications suitably garnished, with proper distributions of regular officers and men, for protective service, at the more important positions on the maritime frontier. For maritime defence of this description, a basis was prepared by legislative provision in the year 1794. Such establishments being completed with systematic foresight; and proper regulations concerning foreign vessels of war in ports of the United States being prescribed, a becoming attention to their execution might be expected if given in charge to officers having military or naval rank.

As next meriting consideration, we remark the providing of armed vessels for public service. When the capacious mind of Washington presided in administration, the necessity of a naval force for protection of commerce, was understood and acknowledged. In the year 1794, authority was given to provide vessels of force on public account. If there were no other public motive——although others of peculiar interest might be mentioned——there is evident use for regular force of this description, to maintain the legitimate authority of the country at entrances of harbours or navigable rivers and in roadsteads or bays and along the territorial sea. In being thus employed with provident attention, the public armed vessels are maintained in service as floating garrisons for defensive protection along the maritime borders. Such protection is analogous to a general policy observed in the land service. To the extent now intimated with respect to the sea service, regular force might be em-

ployed for repelling aggressions ; and to such extent, undoubtedly, the jurisdictional and maritime rights of our own country might be defended.

The general purpose is important and correct. It is important as it regards the interests of commerce and revenue. It is correct as conformable to international law. It is correct as a great measure of national police. It is correct as manifesting administrative loyalty. It is correct for a neutral power as consistent with the duties of fair neutrality. Within the reasonable extent of national authority along the general line of the sea coast, including ports and bays with other waters, the evident rights of the country should be maintained with effect against actual violence. To provide the proper force for such defensive service, and to direct the use of such force fairly but firmly, might have been numbered among the administrative duties highly interesting to the United

States as professing to hold a neutral conduct in relation to European belligerents. Failure in this regard from year to year, if proved by querulous effusions annually confessing the fact, argues not a competence for directing the political helm amidst the howlings of the tempest. Can such effusions save the ship in distress?

At the time of authorizing the provision for naval defence in 1794, there was a special reference to protection against Algerine depredations. Protection against corsairs who doomed captives to slavery, and prevention of the slave trade, were objects of governmental attention in the same year, as may be seen on recurring to the public acts. If the great increase of revenue from imposts since that time be considered, what name should now be given to a policy that would order a general retreat from the ocean and enchain commerce as a sentenced victim? The true principles of defence, free-

dom, justice, honor, give not their sanction to a policy of restrictive rigor that converts a great country into a prison and the administration into a prison keeper and executioner of commerce.

“To an active external commerce, the
 “protection of a naval force is indispensable.
 “This is manifest with regard to wars in
 “which a state is itself a party.—To secure
 “respect to a neutral flag, requires a naval
 “force organized and ready to vindicate it
 “from insult or aggression.”

With the use, therefore, of regular means to support the public rights within the waters of the United States, and to protect trade on the coast as already mentioned, the view might be extended to the occasional employment of naval force for security of merchant vessels in voyages which may be lawful. The utility of systematic provision to this effect might be illustrated in various particu-

lars. It would be appreciated in case of exposure to depredations of corsairs issuing from Hayti, as from a black Algiers born of the French revolutionary tempest in the New World.

In such employment of naval force, the general purpose would be, to shield our commercial rights against actual annoyance at sea; and, with this principle in view, as proper regard to exigencies and means might advise, to repel violence whenever offered by any force whatever. But it is no part of this preventive policy, to make prize of vessels unarmed and unoffending.

The view of maritime defence being enlarged, it is in course for a comprehensive policy to embrace the population habituated to business at sea. Enlightened statesmen, not sciolists and intriguers, might well estimate the navigating character as seen in the varieties of free enterprize sweeping the

ocean with eagle wing to visit distant regions and bring home the results of industry. A policy of manly wisdom might extend an hand to sustain the legitimate activity of commerce amidst the various flight. Instead of this, what feature of wisdom or magnanimity is distinguished in an administrative exercise that operates to cripple navigation? While the use of the plough is free and an interesting scene is observed on viewing the ox as cultivating the earth, is there nothing worthy of observation in regard to the eagle as sailing over the expanse of ocean?

It is an interesting view, the population voyaging over the world amidst diversities of climates, experiencing temperate gales, or encountering polar ice, or active under the torrid sun. Where is the regard due to personal liberty and property as concerned in navigation, if the population at sea may not exercise such rights of defence as are allowed by law to the population on land? In case

of such general provisions as would be clearly proper for the more uniform regulation of armaments in commercial voyages, true hearted seamen of the United States might be delighted with means of defence against violences condemned by international law as well as against hostilities of public enemies. Such armaments for defence on board vessels in lawful commerce are evidently distinguishable from cruisers armed and manned to act offensively.

Without embarrassing the navigation of our own country, but as recognizing the right of having arms for defence, legislative regulation might prevent abuses, and promote efficiency, in relation to commercial armaments. General principles are clear. But the proper application in practice requires thoughtful attention and firmness of decision. If these should appear too formidable for encounter to indolent and feeble minds, do their spasms present the means for sustain-

ing the great cause of the country? A vessel pursuing regular business at sea might be provided with arms to be used for defence, although not for attack; and might hold the defensive either singly or in company for common safety. As illustrating the scientific adaptation of means to a common purpose the art of acting together, it is well known, is realized in the sea service with respect to vessels holden to observe the directions of a common authority. Such are vessels in the service of government, or vessels placed under public convoy. With respect to vessels in the merchant service, although not under public convoy, the art of acting together might be realized on principles having analogy to regulations providing for defence in exigent cases on land. Not hired to invade what belongs to others, but holden to render defensive service, having a common right, feeling a common interest, and performing a common duty, in being defenders of the property and liberties of

the community, free citizens of the respective states constitute the militia, a force so necessary to the security of a free state. In a well regulated militia, is seen a population attached to the country by social ties and employed in concerns of private life, but with arms and equipments and tactical preparation for repelling territorial aggression whenever made by savage or civilized force. Such is a good militia in peace. Such is a good militia in war. While each company of militia has its particular arrangement and officers, various companies are arranged to perform duty together under officers having authority relative to the common force however numerous. With a view to defensive protection, systematic provision might be made for giving a corresponding regularity and efficiency to the population employed on the ocean.

According to such principles, having regard to the fair pursuits and interests of

civilized life, with equipments, arms, munitions, all provided without charge to the public treasury, the companies shipped on board merchant vessels, sailing either singly or together as convenient for the concerned, with requisite attention to the proper discipline and tactics, might constitute a force so well regulated for defence at sea as would be worthy to be denominated maritime militia. The impressment of American mariners being entirely inadmissible on this system, and all compulsory conscription being excluded, the maritime militia serve as volunteers at sea for common defence, but are not executive instruments of invasion. Like volunteers in territorial militia, they have legitimate privileges which they retain, subject however to duties requisite for defence.

As organized by general provisions for defence, the entire body of militia on land consists of citizens, and none others. Who should compose the maritime militia?—

citizens?——or foreigners? Connected with the sympathies and character and interest of the country, the liberty of real seamen of the United States demands the adoption of measures specifically adapted to their cause. In considering such measures, the expectation of any formal treaty for their advantage may be dismissed at once. But the proper measures should be adopted and executed with sincerity, temperance, decision.

The seamen of our own country, composing a class of citizens distinguished for active hardihood and generosity, have been distinguished in suffering a complication of adversities. To hardships and perils at sea, have been added hardships and perils by land. Adversities abroad might be consoled by beneficent attentions at home. For the soul ——at home——it must be a bitter calice, when adversity comes in the name of friendship. What vileness more execrable than the kiss which betrays intentionally for hire!

Different in motive, although similar in operation, is the kiss which betrays in fact, without this intention. On comparison of adversities suffered and advantages enjoyed by the seamen in consequence of administrative measures within this century, perhaps no class of our citizens can be found in the same time to have had more friends in profession and fewer benefactors in practice.

There are two general objects for consideration—the liberation of seamen of the United States impressed into foreign service—the guarding effectually against such impressments in future. To embrace both, becomes a protective policy worthy of the United States of America.

For accomplishing either of the objects, what person will deny the propriety of ascertaining, who are really entitled to the character of seamen of the United States? As a practical question, this is among the first

considerations. If in truth their cause is to be benefitted, it is evidently proper, if not indispensable, to distinguish true seamen of the United States from seafaring persons not belonging to the national family but falsely making pretensions to the character. To favor such persons as though belonging to the United States, prejudices the cause of our own countrymen. In being confounded with foreign impostors, real seamen of the United States are scandalized, and doubly wronged: as such confusion operates to deprive them of two fair privileges of citizenship—the privilege of preferable employment in the merchant service, and the privilege of being clearly protected from foreign impressment.

Nor is this all. The character of the commercial flag of the United States has been made one thing in cases interesting the treasury, and treated as another in cases concerning seamen.

To present the subject more distinctly. Unless a vessel employed in foreign trade is wholly owned in this country, and commanded by a citizen of the United States, it is considered a foreign bottom so far as to subject vessel and lading to what are called foreign duties on tonnage and imports. And no such vessel is allowed to enjoy the full privileges of the national character unless registered in form as a vessel of the United States.

The registry must be in a district of the customs comprehending the port to which the vessel may belong. No vessel built since May 1789 is allowed to be so registered unless built within the United States or lawfully condemned as prize or adjudged forfeited for breach of law; and the ownership in this country must be proved by oath or affirmation. The vessel is measured by a person in the service of the customs, who certifies various particulars descriptive of the identity. And bond is given with surety

for preventing abuse relative to the certificate of registry which may be granted. On compliance with these and other requisites, a vessel may be registered at the custom house as entitled to the benefits and privileges appertaining to ships or vessels of the United States; and then is granted for the vessel a certificate of such registry in full official style, attested under the seal of the treasury of the United States and the hand of the Register of the treasury with the seal of the custom house and signature of the collector. A naval officer or surveyor of the customs countersigns the certificate of registry when issued at a port having such officer. Upon entry from a foreign voyage of a vessel so registered, proof must be made by oath or affirmation, that the vessel continues to be wholly owned by a citizen or citizens of the United States; otherwise the privileges of the commercial flag are not allowed with respect to duties on tonnage and imports. So much is made necessary to complete the na-

tional character of a vessel in cases where the treasury is interested.

At the present time, it is not recollected that the claim respecting the commercial flag on the main ocean as reiterated by administration within this century has been limited to vessels registered in this country and wholly owned and commanded by citizens. No other vessels, however, are allowed in our own ports to enjoy the full benefits and privileges of the commercial flag of the United States as relative to foreign trade. It results, that the immunity of such flag has been claimed at sea, which would be considered as foreign bottoms if within the jurisdiction of the United States.

Whether such claims should be urged with respect to vessels not registered, because not built in the United States, may deserve attention from ship builders as well as seamen of our country.

In relation to registered vessels commanded by citizens either native or naturalized, the subaltern officers and people on board might all be foreigners, not one of them born in this country, and not one of them naturalized, unless naturalization as to the United States consists in being false or forsworn. Although such foreign officers and people might be in possession of papers to cover their pretensions, whether procured by means of false declarations on oath, or obtained originally for citizens born in the United States and procured afterwards one way or another for purposes of foreigners pretending to have the names and character of native citizens——on land, within the jurisdiction of this country exclusively, the foreign pretenders are not allowed to have the same immunities and privileges with citizens, in regard to voting at elections or holding landed estate or exercising local authority or belonging to the militia. At sea,

beyond the exclusive jurisdiction of this country, during the storm of war, by what operative influence can the subject be made to change like harlequin and put on an exterior of other character? In mild weather and a clear sky, the watch-coat is thrown off. Water-borne, and out of sight of land, are foreigners therefore to raise pretensions about immunity or privilege as relative to the United States? In cases so circumstanced, why should a general immunity be claimed for seafaring foreigners as for seamen of our own country? To urge such claims for the foreigners, is adverse to interests of the citizens. And the falsities of foreign pretenders are the more encouraged, as no law is made to punish them for swearing falsely with intention of taking to themselves the birthright of our own seamen.

Thus has the cause of real seamen of the United States been confounded. So much

has been sacrificed to foreign pretensions and foreign profligacy.

If a confusion so injurious to our own seamen is known to result in practice from administrative measures in this country, whatever may have been the original intention, something deserving the name of fair regulation ought to be substituted for the confusion, as far as depends on this government. And on this government it does depend materially, if not entirely. Unless therefore such abuses are corrected, as they might be, or unless the correction is at least attempted by the proper authority in our own country, is it not vain for the honest seamen of the United States to expect the beneficent attentions of real friendship, whatever may be the formal professions of zeal in their cause? Amidst proceedings which indulge abuses to their injury in fact, how ought the professions to be regarded! For sacrificing a good cause, interesting to my-

riads, what is the best apology that can be offered?

On looking at affairs of such concernment, and observing the principal topics as the eye ranges over the scene of empire, the attention is directed to public questions of no trivial moment. The perplexities, which have entangled the questions, are neither few nor easy to be solved. They have been made to resemble the knot of Gordius. Since millions of the human race in Europe have been prostrated in homage to a crimsoned dictator wearing a crown of iron with a new diadem of horrific gleam and aloft in state snuffing the incense of blasphemy offered by vassals! —artificial pretensions have caused embarrassments in affairs of these United States, difficulties have been rendered more difficult, confusion has become worse confounded. To ascertain some of the leading principles applicable to these affairs, may conduce to clearness of apprehension and soundness of

conclusion respecting questions so complicated and vast,

They present various subjects within the scope of general legislation. The rights and interests are extensive in principle, important in practical result. Is it a problem, Whether the powers of government on the part of our own country are competent essentially to provide for the defensive protection of such rights and interests, without treaty or war? If this be indeed problematical——“It is well worth a fair and full experiment.” Difficult it might be, from prejudice and party, if there were no other obstacle. But until the experiment is made, who shall pronounce it impossible? Is it impossible to afford the defensive protection by legislative measures if carried into effect with patriotic discretion and firmness by the executive power? Unless such protection can be realized, what is the prospect for this extensive republic! In the present condition of human affairs,

are the essential interests of our own country to be secured by projects of conquest—projects incongruous, wasteful, destructive?

In providing with systematic foresight for maritime protection, excluding the ambition of maritime conquest, there might be traced for this country a defensive policy with reference to the sea, although the character of defensive has been so much abandoned with reference to the land. Has not the principle of defence been abandoned in retreating feebly where aggression should have been met firmly? Is it not abandoned in ambition of conquest? Before the present century began, the policy of maritime protection on the part of this country was not discarded, by any administration, for territorial aggrandizement.

While president Adams impressed the strong features of his character on the policy of the Union, no scheme was cherished for

making spoil of the unarmed navigation of other people. In consequence of continued French infractions of international law and public stipulations, the United States, in 1798, were liberated from the burthen of a general guarantee involved in the alliance with France and from various embarrassments attached to other diplomatic connexions with that power. The administration stood forth in official responsibility to extend a protecting arm at sea. For giving protection against vessels armed to annoy the regular commerce of the country, maritime force was provided, maritime force was employed. And the protection was given with effect by disciplined valor.

Considering the changes in human affairs since that time and the relative state of our own country, general reasoning might lead to the opinion, that the measures then adopted in regard to maritime protection, if merely copied, would not be completely suitable

under all existing circumstances. The true spirit of a protective policy is worthy to be observed and cherished attentively. But the various exigencies of the time require corresponding modifications of policy so as to apply the principle of defence with extensive efficacy.

If this principle is distinctly marked, if defence and attack are not supposed identical, if the spear empurpled with gore be not mistaken for the shield and olive branch of wisdom, a protective policy may embrace the modifications of various means systematically arranged and commodiously applicable so as to form a compacture of ample defence—— and all without oppressing the arts which contribute to general improvement and domestic comfort. Physical means of defence properly employed, with moral and political influences joining to sustain a policy truly defensive, might establish fair claims to respectability abroad as allied in nature to an

equitable system of protection which would encourage the great interests of the country. It concerns the government, to provide for organizing such various means of defence as might be employed with propriety. If the rights of the republic are to be defended in reality, the defensive armour must be provided. Where the principle of defence is abandoned, it is vain or worse than vain to speak of protection.

How far the proceedings of administration have deviated from the true course of protective policy since the meeting of the Congress in December 1805?—it might be of use to enquire, if the enquiry were pursued as a study in the school of experience.—At that session of Congress, there was an appropriation of money made applicable to negociation extraordinary at executive discretion in a case of official information respecting violated territory. Officers and men in Spanish service were alleged

aggressors. What European government was then understood in fact to decide on negotiations relative to Spanish concerns? What government was understood to expect money for entering into treaty? Were suitable forces provided for repelling such territorial aggressions as gave rise to complaints in full official form addressed to the legislature? Was the principle of defending territorial right sustained in such case or was it deserted? At that session of Congress, was known but too well the difference in effect between a language official and a language confidential. At that session, the freedom of speech was restricted in a manner before unknown in the House of Representatives, by interdicting all debate on a preliminary enquiry termed the previous question. At that session, was passed the partial prohibiting act against trade, which received the presidential signature on the 18th of April 1806. Was the principle of defending maritime right then sustained or was it desert-

ed? Commercial restriction by the administration in our own country was provided, instead of maritime protection against foreign wrongs.

In principle, if protection on land, and protection at sea, were deserted by administration on the great theatre of empire, where is the cause for surprize about foreign indignities? If the administration of our own country had not so much respect for territorial right or maritime right as to provide for the defence of either, was it to be credited that rights so forsaken would command foreign respect amidst all the fierceness of belligerent passions?

In following for years a sort of policy thus introduced, if political obscuration and violence and feebleness have joined to perplex, with vexatious futility, the councils which should have been distinguished for clearness of information and soundness of

result and firmness of execution——there is cause for hope respecting our common country. The disastrous course of our public affairs is not the unmixed and unmitigable effects of any necessity of nature irresistably overruling all possible efforts for prevention. The evils are not in nature unrelievable and incurable. As far as evil has resulted from past error in administration or people, the correction of the error may prevent such evil in future. There is, therefore, cause for hope respecting our yet existing republic, when it is so evident, that the public evils may be alleviated materially, if not remedied entirely, by means within the public competence.

To the character and use of means proper for such alleviation and remedy, the attention is turned in the order of nature, before the quantity can be satisfactorily prescribed. The amount of means for service of the public may be expected to divide opi-

nions, while there is a want of union of views respecting the use for which they should be prepared. If the public use is to be defence a moderate regular force suitably arranged with a good establishment of militia might present adequate means for the course of ordinary duty and for cases of extraordinary exigence. Organized to meet such cases, composed of citizens interested in shielding the community, it concerns the armed might of a well regulated militia, to rebuke internal turbulence and repel invading force. If the object be conquest, can it be accomplished without numerous forces constantly in service? The various bodies of militia are not in nature convenient instruments to invade what belongs to others.

The observations are applicable in relation to service on land and water. They extend to army and navy——territorial militia and maritime militia. Whatever might be the proper determination as to amount of

force for the land service or the sea service, if there be first a coincidence of opinions as to the proper use of such force, the subject is so far liberated from controversy. This primary consideration being clearly settled and distinctly agreed, some useful provisions of systematic character might take place of temporizing expedients.

Holding in respect the established principles of international law, and guided by enlightened regard to the great interests of the associated republic, the United States might have had a decided policy of their own——without being tantalized in waiting for one despatch vessel and another and another to bring some account of some change or no change in some of the measures or ministers of some of the European governments. The policy ought to be a policy of freedom, not of restrictive rigor. It ought to be a policy of protection, not of abandonment——a policy of defence, not of conquest. To be

useful, consistent, comprehensive, the policy, in giving a systematic shape to affairs, might be more observable for simplicity of principle and general facility of application according to actual circumstances, than for confused glare of project and enormity of expenditure.

Such are observations which occur in viewing the prominent exterior of administrative policy. In a rapid sketch, like the present, it is attempted to mark general characteristics, omitting details. An outline is attempted, not a finished painting. To complete a view of such policy as concerns the protection of personal liberty and property at sea and ashore, might require much of fixed attention and close observation from persons of free and intrepid minds cherishing a comprehensive patriotism and aided by scientific skill and practical knowledge.

For the United States of America, a system of such protective policy when completely arranged would be neither French nor British, but distinctly American. The policy would be conformable to principles of wise and magnanimous patriotism recommended by the example and counsel of Washington.

Such policy would be conformable to alldial and republican principles as distinguished from the feudal and monarchical. It would not require a loan of eleven millions of dollars for the first year, with the levies of massy taxation so much to be noted in the fiscal projects during the session of Congress which began in November 1811 and ended in July 1812.

To give legitimate effect to the true system of protective policy for this Union of republican States——there is now no necessity of double duties on imports ; no neces-

sity of subjecting the coasting vessels and fishing vessels, and merchant vessels of the United States to fourfold duties of tonnage ; no necessity of taxing, in form of licence, the retailers of wines or of spirits or of merchandize or tavern-keepers ; no necessity of taxing sales at auction ; no necessity of levying duties for carriages of four wheels or of two wheels ; no necessity of stamp duties on instruments of writing ; no necessity of direct tax : and no long loans in yearly succession are wanted ; no exchequer bills or treasury notes are wanted ; no prohibition of importations is wanted ; no embargo is wanted ; no prohibition of exportations is wanted ; no general detachment of militia is wanted ; no offensive war against any one European power is wanted.

All might be set aside.

Provision is demanded for defensive protection. This is a fair claim of right on the

part of the community—a claim which ought be respected by functionaries intrusted to administer the public affairs. In neglecting such provision from one querulous year to another, public administrators omit what ought to be done. In scourging the community with multiform restrictions, and enforcing hard impositions with severe pains, they do those public things which ought not to be done.

Measures of ulterior incongruity, political ostentation and improvidence, human slaughter for entertainment, projects of great menace, great annexations of territory, great pressure of requisitions, great derangement of the general industry, great vexation of the landed interest, great depression of the navigating interest, great waste of property, great increase of executive patronage and fiscal ascendant,—they all do not belong to the marked character of defensive policy. However ungratifying to royal or imperial passion,

this guardian policy highly concerns a civilized republic as preferring the useful to the glaring, a system of conservation to plans of destruction. The scope of this policy is not conquest, nor submission, nor commercial restriction. It is freedom and protection.

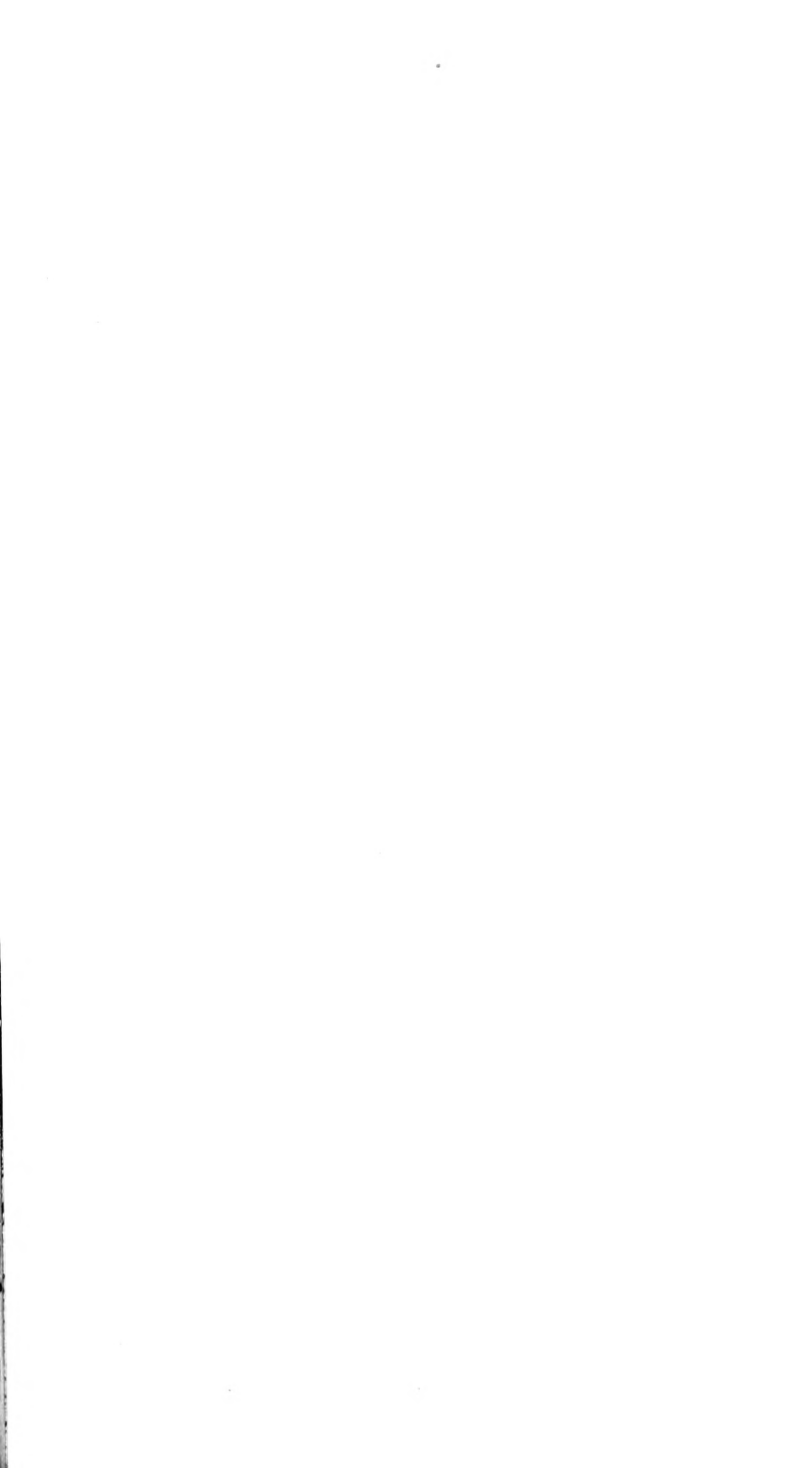
Moving in the high road of argument and general policy, the preceding observations bear upon various questions relative to the war declared in June 1812; and they point to considerations for ending the hostilities upon principles eminently interesting to this Union in existing exigencies. They have not rested the character and hopes of the country on foreign attachments or antipathies. They appeal to high and honorable sentiments of patriotism, to the abhorrence of being submissive to foreign dictation, to the principles of our social contract, to the interests of the community, to the capacities for defence, to the great law of self-preser-

vation, to the sense and spirit of men who estimate their liberties.

On enquiring, How the hostilities could be ended?—if it were replied, that a treaty is not necessary for the purpose——would you be willing to consider the subject? How much time would you devote to the examination?——a month?——a day?——possibly an hour? Would you examine it as a statesman or as a mere party politician? If you examine it as becomes the statesman ——











LIBRARY OF CONGRESS



0 011 896 609 0